IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.3144 of 2007

M/s.S.K.Grain Suppliers Applicants
Vs.
Chandrakesh Sarjuprasad Yadav & anr. Respondents

Mr.Rajesh S. Maravoor i/b. M/s.Maravoor Wamorkar & Co. for applicants.
Ms.S.V.Gajre, APP for State.

CORAM: B.H.MARLAPALLE, J.
October 1, 2007.

P.C.

. Heard the learned counsel for the applicant who is seeking leave to appeal under Section 378(4) of Cr.P.C. against the order of acquittal passed by the learned Metropolitan Magistrate, 30th Court at Kurla, Mumbai in CC No.6493/SS/2006 filed under Section 138 of the Negotiable Instruments Act, 1881. Admittedly the complainant was one of the partners in M/s. S.K. Grain Suppliers and so was the case of the accused. The partnership had in all three partners and the accused being the acting partner was conducting the business. The trial Court held that the complainant could not prove that the dishonoured cheque was issued against any debt or any other legally enforceable liability. It referred to the cross-examination of the complainant in which he

admitted that the receipts / collections was being deposited by cheque in the account of the partnership firm and the account could be operated by issuing cheque duly signed by any of the partners. After the partnership firm was dissolved, the complainant as well as the accused started collecting dues from the parties and in fact the complainant admitted to have received some amount in cash. This was being done by all the three partners and, therefore, there was no material on record to prove that the dishonoured cheques were issued against debt or any other legally enforceable liability and on the other hand, the defence of the accused was that postdated cheques were issued which were sought to be encashed by the complainant. I am, therefore, satisfied that the evidence brought on record by the complainant and considered by the trial Court does not call for reconsideration at the hands of this Court.

. Hence leave to appeal is hereby refused and the application is rejected.

(B.H.MARL